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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/552,015 04/19/00 COBB

M 5182

EXAMINER

PM82/0119

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HURLEY, K

ART UNIT

PAPER NUMBER

3619

DATE MAILED:

01/19/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/552,015

Applicant(s)

Cobb

Examiner

Kevin Hurley

Group Art Unit

3619



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-3 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-3 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Apr 19, 2000 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “clutch pedal” (claim1 ) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

### ***Claim Objections***

2. Claims 1 and 3 are objected to because of the following informalities: in claim 1 line 9 “petals” should be --pedals--, and in claim 3 line 3 “han” should be --hand--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 line 6 “the pedal sprocket” lacks positive antecedent basis.

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***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 (as understood) is rejected under 35 U.S.C. 102(b) as being anticipated by Matsumoto et al.

Matsumoto et al. discloses a motorized bicycle comprising:

a bicycle frame 19;

a front wheel 15 and a rear wheel 17 secured to the frame for rotary motion thereof;

a pair of pedals 30;

a drive train 46 linking the rear wheel to a pedal sprocket;

a horizontal shaft internal engine 80, having a motor pulley 45, the pedals linked to the motor pulley for causing the motor pulley to rotate;

a clutch assembly 53, having a clutch pedal 69, the clutch assembly selectively linking the engine to the motor pulley for selectively allowing the engine to rotate the rear wheel.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-3 (as understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumoto et al. in view of Enjo et al.

Matsumoto et al. discloses the claimed invention but does not specifically show hand grips with brake and throttle controls.

It is well known in the art, for example as shown by Enjo et al., to provide a motorized bicycle with brake and throttle controls. Enjo et al. discloses a pair of brake levers 45 mounted on hand grips as well as a throttle mechanism 48 located on one of the hand grips and in communication with an internal combustion engine 28. Such mechanisms allow the driver to control the speed of the vehicle.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Matsumoto et al. by providing brake and throttle mechanisms, as taught by Enjo et al., in order to allow the driver to control the speed of the vehicle.

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hildebrand discloses a pedal and motorized bicycle with a large rear pulley and small front pulley. Yokoyama, Goodwin, and Read disclose motorized and pedal driven bicycles.

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10. Any inquiry concerning this communication should be directed to Kevin Hurley at telephone number (703) 308-0233.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai, can be reached on (703) 308-2486.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0113.

**Any response to this action should be mailed to:**

Assistant Commissioner for Patents  
Washington, D.C. 20231

**or faxed to:**


(703) 305-7687, (for formal communications intended for entry)

**Or:**

(703) 308-2571 (for informal or draft communications, please clearly label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park 5, 2121 Crystal Drive, Arlington, Virginia, Seventh Floor (Receptionist).

KTH  
January 16, 2001

  
Kevin T. Hurley  
Primary Examiner  
Art Unit 3619